

# EXHIBIT B

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Trial

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

10 Cr. 228 (LTS)

DANIEL BONVENTRE,  
JEROME O'HARA,  
GEORGE PEREZ,  
ANNETTE BONGIORNO,  
JOANN CRUPI,

Jury Trial

Defendants.

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New York, N.Y.  
January 13, 2014  
9:15 a.m.

Before:

HON. LAURA TAYLOR SWAIN

District Judge

APPEARANCES

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
MATTHEW L. SCHWARTZ  
RANDALL W. JACKSON  
JOHN T. ZACH  
Assistant United States Attorneys

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KIMBERLY A. YUHAS  
Attorneys for Defendant Perez

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Trial

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APPEARANCES

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Attorneys for Defendant Crupi

Eldrbon2

DiPascali - redirect

1 presented to a client that illustrates in what capacity the  
2 transaction was being done. It could be done as agent, it  
3 could be done as principal, the two primary capacities.

4 Q. What does it mean to be done as an agent?

5 A. It's when a broker-dealer acts on behalf of his client and  
6 is a middleman where they go out into the marketplace and  
7 purchase securities acting as the client's agent and in doing  
8 so is eligible to collect a commission, very similar to what a  
9 real estate agent does.

10 Q. If you were to collect a commission, you would be operating  
11 as an agent, right?

12 A. Typically, if you act as agent, you charge a commission,  
13 that's correct.

14 Q. Mr. Riopelle asked you a series of questions showing you  
15 some trade confirmations that didn't have commissions but asked  
16 you, since there were no commissions listed there, doesn't that  
17 show that they must have been trading out of their inventory.  
18 Do you recall those questions?

19 A. I do.

20 MR. ZACH: Your Honor, may I approach the witness?

21 THE COURT: Yes, you may.

22 Q. I want to show you one of the trade confirmations. Can we  
23 call up Government Exhibit 105-B230.

24 THE COURT: Is this in evidence?

25 MR. ZACH: Yes, your Honor.

Eldrbon2

DiPascali - redirect

1 Q. Could we go to page 2, please. Do you recall looking at  
2 confirmation slips like this?

3 A. I do.

4 Q. Can you tell us where the capacity code is on this.

5 A. Almost dead center in the top line of the information,  
6 there is a series of boxes and then there is the word "codes."  
7 Under that there are three types of codes. The first one is a  
8 I believe transaction code. The second one is the one you're  
9 talking about, capacity code. And the third one, I'm not even  
10 sure what it means.

11 Q. I would like to show you the original of this. Does it  
12 tell you what those numbers mean on the back?

13 A. It does.

14 Q. What does the number 1 mean?

15 A. Agent.

16 Q. What does that mean with respect to this transaction?

17 A. It means that the broker-dealer acted as the customer's  
18 agent in transacting this security for that customer.

19 Q. That would be acting as the middleman, like you just  
20 described?

21 A. That's correct.

22 Q. To take a time-out here, this is a completely bogus trade,  
23 right?

24 A. Absolutely.

25 Q. None of this is real, right?

Eldrbon2

DiPascali - redirect

1 A. That's correct.

2 Q. The question here is what is this being made to look like  
3 on the statement, right?

4 A. Yes.

5 Q. The 1 would indicate that it is being traded as an agent,  
6 that Madoff Securities is going out on the market and buying  
7 it, right?

8 A. That is correct.

9 Q. How would that square with the questions you were being  
10 asked about whether these trades were coming out of Madoff's  
11 inventory?

12 A. If you acted as agent, it wasn't coming out of your  
13 inventory.

14 Q. It couldn't be, right?

15 A. The capacity code is principal to come out of your  
16 inventory. As agent, I believe it directs the reader to  
17 understand that this transaction happened outside the broker-  
18 dealer, in the marketplace with another broker-dealer, and the  
19 broker-dealer that printed the ticket simply acted as the  
20 middleman or the agent.

21 MR. ZACH: Your Honor, may I retrieve my document?

22 THE COURT: Yes.

23 Q. Can we go to page 17. This was another one of the trades  
24 you were shown on cross-examination. You were asked questions  
25 about this. In response I believe to some of these questions

Eldrbon2

DiPascali - redirect

1 you said, I need to understand the capacity code. What is the  
2 capacity code here?

3 A. Again, it is agent.

4 Q. That is the number 1 up there, right?

5 A. Correct.

6 Q. This is a fake trade, right?

7 A. Oh, yes.

8 Q. The way it is being typed up, could this be coming from  
9 Madoff's inventory?

10 A. I'm sorry. I didn't hear the rest of that question.

11 Q. The way it is being typed up, would this be a trade that  
12 would be coming out of inventory?

13 A. No.

14 Q. We can take that down. Did Madoff Securities on the 18th  
15 floor make a market in options?

16 A. No.

17 Q. Could any options trades be coming out of inventory from  
18 upstairs?

19 A. Possibly as principal. But the reality was the trading  
20 room upstairs had insignificant options inventory.

21 Q. Nothing like 20 percent of the market?

22 A. Nothing like 20 contracts much less 20 percent.

23 Q. It was a very, very small bit?

24 A. It was insignificant.

25 Q. How about treasuries?

Eldrbon2

DiPascali - redirect

1 A. What about them?

2 Q. Did they make a market in treasuries?

3 A. No.

4 Q. Could you be buying treasuries out of the inventory  
5 upstairs, or did they have inventory -- strike that question.  
6 Did they have inventory to be placing into the account of  
7 treasuries upstairs that was equivalent to the amount that was  
8 on the statements?

9 A. No.

10 Q. I would like to switch topics once again, very briefly. I  
11 would like to show you what is in evidence as O'Hara Exhibit 9.  
12 Can we activate the ELMO. We talked a bit, Mr. DiPascali, on  
13 Thursday about the meeting between Mr. O'Hara and Mr. Perez,  
14 yourself, and Bernie Madoff. Do you recall that?

15 A. Yes.

16 Q. After that meeting in the IA business, did you continue to  
17 need DTC type information?

18 A. I did.

19 Q. On cross-examination by Mr. Mehler, he showed you this  
20 document, right? Do you recall that?

21 A. I recall seeing the document. I don't exactly remember  
22 when.

23 Q. This document says "API bal," do you see that?

24 A. I do.

25 Q. What is your understanding what "API bal" stands for?